

**Speech-Language Pathology and Audiology Board**

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**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

Medical Board of California
1424 Howe Avenue
Greg Gorges Conference Room "F"
Sacramento, CA 95825
(916) 263-2666

**FULL BOARD MEETING MINUTES
AUGUST 18-19, 2005**

Board Members Present

Marcia Raggio, Ph.D., Chairperson
Rebecca Binge, M.A.
Alison Grimes, Au.D.
Jennifer Hancock, M.A.
Carol Murphy, M.A.
Lisa O'Connor, M.A.
Paul Donald, M.D.
Diana Verdugo, M.S.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Candace Raney, Staff Analyst
Lori Pinson, Staff Analyst
George Ritter, Legal Counsel

Guests Present

James McCartney, CSU Sacramento
Robert Ivory, Audiologist California Academy of Audiology
Robert Powell, California Speech-Language-Hearing Association
Jim Stassy, Sacramento Advocates Representing California Academy of Audiology
Cathryn Nation, University of California Office of the President

Speech-Language Pathology and Audiology Full Board Meeting**I. Call to Order**

Chairperson Raggio called the meeting to order at 2:05 p.m.

II. Introductions

Those present introduced themselves.

III. Election of Officers

Chairperson Raggio stated that typically in January each year the Board holds the elections for the office of Chair and Vice Chair, however, the process was delayed this year pending the new member appointments and reappointments. Ms. Raggio invited nominations for the office of the Chairperson.

Ms. Murphy nominated Ms. O'Connor.

Ms. Bingea nominated Ms. Grimes.

Ms. Grimes conceded to Ms. O'Connor and stated that since she had already served in the Chairperson role, she would be happy to serve as Vice Chair.

M/S/C Donald/Hancock

The Board unanimously voted to appoint Ms. O'Connor to the office of Board Chair and Ms. Grimes to the office of Vice Chair.

IV. Approval of meeting minutes for April 29, 2005 Committee Meeting and Full Board Meeting

The Board discussed minor grammatical edits to the meeting minutes.

M/S/C: Grimes/Murphy

The Board approved the April 29, 2005 Committee and Full Board Meeting minutes as amended.

V. Chairperson's Report (Marcia Raggio) Appointment of Committee Members to the Sunset Review Committee

Ms. Del Mugnaio stated that, since the sunset review report may be due to the Legislature prior to the next scheduled Board meeting to be held at the end of October 2005, the Board may need to delegate the authority of adopting the final sunset report to a two-person committee. Ms. Del Mugnaio stated that the two-person committee could discuss the report and meet telephonically in order to make technical changes and approve the final document.

Ms. Bingea inquired whether other Board members could still contribute to the report through the executive officer.

Mr. Ritter stated that members can contribute to the report and submit language to Ms. Del Mugnaio. However, the board members should avoid discussing the report with each other as a discussion chain may form, which can inadvertently become a meeting and violate the Open Meetings Act.

Ms. Raggio and Ms. O'Connor agreed to serve on the Sunset Committee.

M/S/C: Bingea/Hancock

The Board voted to delegate the responsibility of approving the final Sunset Review Report to the Sunset Committee should the Legislature or the Department of Consumer Affairs request the report prior to the next scheduled Board meeting.

VI. Proposed Regulations

A. Review and Approval of Proposed Regulations Regarding Board-Approved Institutions and Advertising of Professional Degrees (California Code of Regulations Sections 1399.152 & 1399.156.4) *(Although the public may provide comments with respect to this agenda item, they will not be accepted by the Board as official rulemaking comments pertaining to the proposed regulations or included in the rulemaking record required under the Administrative Procedure Act.)*

The Board discussed the three comments received during the 45-day public comment period that essentially supported the need for specificity in defining the length of the program at four years, with three years of didactic (coursework and clinical) and a full-time fourth year externship. Comments received by the American Speech-Language-Hearing Association were more technical in nature and suggested clarification to accreditation references and the approval of previously accredited graduate programs in speech-language pathology and audiology.

Ms. Del Mugnaio stated that she is concerned about the prescriptive doctoral program language referenced in the document under subsection (d) that pertains to programs that are not accredited by one of the national accrediting bodies outlined in subsection (b) or (c). She further stated that, after researching the audiology doctoral training programs across the nation, a few of the proposed training components are well above the national average. She explained that the role of the Board is to adopt standards that maintain quality training, but that the Board should not strive to create standards above that which has been established as quality professional training. Further, she explained that the proposed language creates a two-tiered system of Board approval: those programs that hold national accreditation and meet established Council on Academic Accreditation (CAA) standards, and those programs that do not hold national or regional accreditation and are held to the Board's proposed higher standards.

The Board discussed the survey document prepared by Ms. Raney and Ms. Del Mugnaio that outlined the doctoral training components for several programs across the country.

Ms. Del Mugnaio inquired about the necessity for the prescriptive accreditation standards as defined in subsection (d), stating that she is not aware of existing audiology doctoral programs that would fall under this criterion. She stated that all of the programs she is aware of are submitting themselves to the Council on Academic Accreditation (CAA) for accreditation status. She further suggested that future programs not accredited by the CAA may still meet the Board's proposed criteria, as the proposed language provides for

the approval of doctoral audiology programs that are accredited by other accrediting bodies recognized by the Board.

Ms. Grimes reported that there is ongoing development and discussion surrounding future accrediting bodies for audiology education, and that she believes the Board should proactively address future accrediting options.

Ms. Del Mugnaio stated that she agreed, however, one of the standards for adopting state regulations is to establish the necessity for the new or amended provisions, and that she was having difficulty preparing a justification for the language pertaining to doctoral audiology programs that do not hold regional or national accreditation.

Ms. Grimes reiterated that the need will arise for the Board to address other accreditation options.

The Board discussed the issue at length and concluded that the proposed language should be amended to include some of the technical edits as suggested by the American-Speech-Language-Hearing Association, to delete the specific audiology doctoral program components under subsection (d), and that future accreditation bodies recognized to evaluate audiology education be addressed in the language under a revised subsection (d).

The Board had no comments or changes to the proposed regulations amending Section 1399.156.4, which pertain to the advertising of professional degrees.

M/S/C O'Connor/Murphy

The Board voted to amend the regulation proposal incorporating the changes outlined in the discussion, and to send the modified text to the public for a 15-day public comment period.

B. Review and Approval of Proposed Information Disclosure Regulations (California Code of Regulations Sections 1399.180 – 1399.187)

Ms. Del Mugnaio explained that the adoption of the proposal regulation would establish, by regulation, the Board's information disclosure guidelines. She explained that the information disclosure regulations would identify information related to both qualifications of licensees as well as to enforcement actions or probable actions taken against a licensed person.

Mr. Ritter explained that appropriate disclosures will be posted on the Board's website or in written materials where information is released regarding a probable violation of law that has been transferred to the Office of the Attorney General for formal disciplinary proceedings.

Mr. Donald inquired about the California Medical Board's disclosure policies and whether the Medical Board discloses complaint information prior to the filing of a formal accusation.

Mr. Ritter stated that the California Medical Board does not disclose complaint information prior to the filing of an accusation. However, he stated that the decision of the Board to move forward with this proposal has been carefully vetted in terms of the evaluation of the investigative processes that are employed prior to the transfer of a case, the use of professional experts to advise Board staff, and the case-transfer statistical data that demonstrated that greater than 88% of cases transferred by the Board are accepted by the Office of the Attorney General for formal administrative filings.

Ms. Del Mugnaio reported that the Board reviewed the regulation proposal at a number of previous Board meetings. At the April 2005 Board meeting, the Board approved the regulations for filing. The public comment period for the proposal closed on August 15, 2005, and no comments were received by the Board.

M/S/C Donald/Bingea

The Board voted to adopt the proposed regulations California Code of Regulations Sections 1399.180-1399.187 Information Disclosure as the final order of adoption.

C. Review and Approval of Proposed Citation and Fine Regulations (California Code of Regulations Section 1399.159, 1399.159.01, 1399.159.1 & 1399.159.4)

Ms. Del Mugnaio explained that the proposal increases the maximum fine that can be imposed by the Board to \$5,000, as authorized by recent changes to the statute. She explained that the imposition of the maximum fine would be levied in cases involving an immediate relationship to the health and safety of another person, a person committing multiple infractions, and cases pertaining to a perpetrator acting against a minor, a senior citizen, or a disabled person. Ms. Del Mugnaio further explained that the proposal changes the procedures for issuing citations and allows for the issuance of a probable cause letter to the licensee, where the licensee is informed of the process and offered an opportunity to participate in an office mediation process prior to issuance of the actual citation. In this way, a licensee can make statements in his or her defense and provide mitigating facts to the Board for consideration prior to the Board's issuance of a public citation. She further explained that licensees are always afforded the right to a formal hearing before an administrative law judge.

Ms. Del Mugnaio stated that the public comment period for the regulation proposal ended on August 15, 2005, and that no comments were received by the Board.

M/S/C Bingea/Grimes

The Board voted to adopt the proposed regulations California Code of Regulations Sections 1399.159, 1399.159.01, 1399.159.1 & 1399.159.4 regarding Citation and Fines as the final order of adoption.

At the request of the members, Agenda items XI. Closed Session, XII. Announcements, and XIII. Future Meeting Dates were taken up.

BOARD CONVENED IN CLOSED SESSION

XI. Closed Session (pursuant to Government Code Subsections 11126 (a)(1) (c)(3) Proposed Decisions/Stipulations/ Other APA Enforcement Actions

The Board deliberated in closed session.

BOARD RECONVENED IN OPEN SESSION

XI. Announcements

Next Board Meeting is scheduled for October 28-29, 2005 San Francisco

The Board announced that to accommodate the potential sunset review due dates and schedules, the next scheduled Board meeting will be changed to October 27-28, 2005 to be held in Sacramento.

XII. Future Meeting Dates

The Board did not plan a 2006 meeting calendar, pending the outcome of SB 232 and whether the Board would be subjected to sunset hearings in December 2005 or January 2006.

The Board adjourned the meeting at 5:00 p.m. to be continued on August 19, 2005 at 9:00 a.m.

9:00 a.m. - August 19, 2005 – Full Board Meeting Continued

The meeting was reconvened at 9:20 a.m. on August 19, 2005.

Those present introduced themselves.

VII. Legislation

A. SB 724 Scott – California State University Doctoral Degrees (Representative from University of California Office of the President)

Ms. Del Mugnaio began the discussion by reviewing the most recent amendments to the bill that had occurred on August 15, 2005, pertaining to the authorization of the California State University (CSU) system to award doctoral degrees in the discipline of education (the EDD). Ms. Del Mugnaio referenced the written Executive Officer Report included in the meeting materials, which provided a summary of SB 724 from introduction through the various amendments. As was discussed at previous Board meetings, SB 724 once carried language that addressed doctoral training in audiology that would have granted the CSU the authority to issue the doctorate of audiology degree. However, after several legislative hearings were conducted to discuss the merits of the bill, Senator Scott's Office, the CSU, and the University of California (UC), privately negotiated amendments to the bill that

resulted in the bill taking a much more narrow scope and which excluded references to the audiology language. Ms. Del Mugnaio stated that, while the bill no longer addressed audiology professional training, the CSU and the UC publicly (before the Legislature) committed to begin discussions on the development of future joint-doctoral programs in audiology. She stated that the UC's commitment to this endeavor is evident in that the UC developed a comprehensive Audiology Workforce Needs Assessment Report in April 2005 and sought information and input from the Board.

Ms. Del Mugnaio introduced Cathryn Nation, M.D., Executive Director of the University of California Academic Health Sciences who attended the Board meeting to explain the various options being considered by the UC for audiology program development, and to address some of the issues that must be fully explored before specific commitments can be made regarding potential program sites, program size, and structure.

Dr. Nation introduced herself as the Interim Vice President for Health Affairs and explained that her division focuses primarily on core health professional services, including nursing, dentistry, pharmacy, public health, optometry, and veterinary medicine. She explained that the discussions surrounding the Scott legislation regarding the independent doctorate for the profession of audiology have elevated the need for audiology program planning on a relatively fast track. She explained that the joint program between San Diego State and UC San Diego provides one model that both the UC and CSU can examine for the purposes of future planning concepts. Dr. Nation stated that San Diego offers the largest number of joint program opportunities in the state, primarily due to commitments from the academic leadership in that region of the state to partner and devote resources to joint programs. Dr. Nation outlined several options the UC would be researching in order to come to some decisions on audiology program development. Such options include the following: regional partnering of existing CSU Master's programs with a UC Medical Center, development of an independent UC doctoral program, expansion of the San Diego program by as much as 50%, or some form of a consortium approach where priority transfer students from more than one CSU campus would matriculate to a University site for clinical training. Dr. Nation stated that, based upon preliminary discussions with the UC faculty in the schools of medicine and the academic chairs, there is expressed interest in considering both UC Davis and UC San Francisco as potential sites. However, she suggested that the UC must further examine all of the resources necessary to support doctoral training, including faculty, facility, patient population, student enrollment, and other external considerations. Dr. Nation stated that UC expects discussions regarding program development between UC and CSU to occur in the fall. She stated that UC President Dines has written to CSU Chancellor Reed to invite his feedback regarding the CSU's priorities for program planning.

Dr. Nation reiterated that, while the UC has not made any firm commitments as to the location of the doctoral training programs, its focus will be aligned with the Board in that its priority will be to develop quality training standards that support safe and effective patient care.

Ms. Del Mugnaio inquired about the next step and proposed timeline for program planning.

Dr. Nation stated that President Dines has written to Chancellor Reed to invite discussion and feedback regarding program planning options and priorities, and is awaiting a response. She stated that the UC is ready to embark on program development and that, in order to have programs up and running by Fall 2006, which is a very limited time-frame, program development must occur very soon. Dr. Nation stated that President Dines is hopeful that preliminary discussions between the UC and the CSU will occur in early September 2005.

Ms. Del Mugnaio inquired about how the UC determines where to focus its resources for the future planning of doctoral training in health professions, and whether audiology was a consideration prior to the Scott legislation.

Dr. Nation informed the Board of a needs assessment report for California that the UC completed two years ago to assess future educational needs for health professionals in California, and found that UC has not seen growth in its education programs in 25 years, and that California is trailing in the nation in terms of educational opportunities per capita. She stated that, as a result of the report and other discussions, UC is invested in joint academic planning. She further explained that the external accreditation transition factors surrounding the training program development needs in audiology were not apparent to the UC until about a year ago.

Ms. Grimes inquired whether UC is considering, in the interest of the immediate need for doctoral training in audiology, mounting an independent UC training program, while continuing the discussion with the CSU on joint-program planning.

Dr. Nation suggested that the option of a UC independent program is being considered as a parallel track to joint programming.

Mr. Donald inquired about funding options and whether other existing program resources would be compromised in order to mount a new doctoral training program.

Dr. Nation stated that existing programs should not be under-funded or undercut due to new program implementation. She further discussed various funding sources and models, including the assessment of professional fees, endowments, and private industry scholarships for health science programs.

Ms. Grimes inquired whether a sample professional fee schedule for the profession of optometry could be shared, as the profession is closely related to audiology in terms of academic preparation. She also inquired whether data regarding student enrollment in optometry programs could be shared with the Board.

Dr. Nation indicated that the information is public and can be made available to the Board.

Ms. Raggio stated that she understands that the major point of contention with the development of the audiology doctoral programs is location.

Dr. Nation explained that the UC does not envision developing five or six new doctoral programs but, perhaps, something closer to one or two programs in addition to the San Diego program that already exists. She stated that the UC has five academic medical sites: Sacramento (UC Davis), San Francisco (UC San Francisco), Orange County (Irvine School of Medicine), Los Angeles (UC LA), and San Diego (UC San Diego). She stated that a major factor in selecting a location is interest on the part of the UC site. She further stated that faculty must be completely invested in the process, in that the time investment is substantial, and there is no additional salary provided for program planning. She reiterated that resources are the other major factor in determining location, and that this involves critical mass issues such as student population, faculty, clinical resources and, most importantly, quality.

Dr. Nation inquired about how the Board would address public access issues should the audiology workforce dwindle due to the lack of California graduates entering the profession.

Ms. Del Mugnaio stated that the Board has not faced such critical shortage issues in the past and is concerned that relying on importation of audiologists from other states may not meet the state's service demands.

Ms. Bingea stated that due to California's cost of living, it is less attractive and feasible for audiologists to relocate to California, and that it is likely that the number of audiologists we import in future years will drastically decline.

Dr. Nation suggested that the professions of nursing and pharmacy, among others, are experiencing similar professional import issues.

Mr. Donald stated that the bottom line surrounds funding and, unless additional dollars are available, new programs have little chance of success in terms of quality and preservation.

Dr. Nation stated that she recognizes the funding concerns and reiterated that the UC will uphold its commitment to Senator Scott's Office, the Legislature, and the Governor's Office to move forward with doctoral program development for audiology, taking into consideration all available funding models.

Dr. Nation stated that she will provide the Board with a status update after preliminary meetings have taken place.

B. SB 232- Sunset Extension

Ms. Del Mugnaio referenced the Executive Officer's Report, which extensively outlined the chronology of events that have occurred surrounding SB 232. She stated that, in addition to the events in the written summary, the Board had corresponded with the Department of Consumer Affairs regarding the Board's workload issues and to learn whether the Department had any issues with the Board, or either of the professions, that it wanted the Board to include in its report so that the Board could devote its limited resources to focus on those particular issues. Ms. Del Mugnaio stated that the Department had responded

and indicated that it did not have any specific issues to raise with the Board but, rather, believed that the established sunset review cycle for all boards should be adhered to. The Department further stated, in a subsequent conversation regarding the correspondence, that it would not be appropriate to identify issues with the Board at this point in the process, as that would be the charge of the Joint Committee on Boards Commissions and Consumer Protection. Ms. Del Mugnaio explained that, as indicated in her written report, the Joint Committee had stated on more than one occasion that it was not planning to review the Board until the fall of 2006.

Ms. Del Mugnaio reviewed some of the main points outlined in her report and indicated that the bill was heard in the Appropriations Committee on August 17, 2005 and had passed out of the Committee without opposition. She stated that, despite the Legislature's support of SB 232, the Board must move forward with developing the sunset report, pending the outcome of the bill.

C. AB 436 Plescia – Communication Devices

Ms. Del Mugnaio stated that the Board had voted to support AB 436 at its April meeting and that she and Ms. O'Connor had prepared the support letter to forward to the Legislature and Assembly member Plescia's office. She stated that the bill was amended on May 27, 2005 and will continue through the Legislative process.

D. AB 615 Vargas – Over-the-Counter Hearing Aid Sales

Ms. Del Mugnaio stated that the bill did not move forward through the legislative process after its initial introduction.

VIII. Discuss Preparation of Sunset Review Report and Timeline for Final Report Preparation

The Board reviewed and discussed the draft document at length and identified the major changes that have occurred since the Board's last sunset review in 1997. The program changes identified included the endoscopy provisions, cerumen removal provisions, the new temporary required professional experience license category, creation of the paraprofessional category of speech-language pathology assistants, and the continuing professional development program.

Ms. Del Mugnaio suggested that Part II of the report focus solely on the issues raised in the prior sunset report rather than to the development of new issues. She stated that, because of the limited time the Board may have to finalize the report, the focus should be to fully develop responses to the questions raised by the Joint Committee during the 1997 sunset review.

Ms. Raggio offered to rework the sections of the report addressing educational requirements in audiology, in order to update the information surrounding audiology doctoral training and future program development.

Ms. Grimes stated that she would like to contribute more information on the Newborn Hearing Screening Program and the need for standards regarding infant hearing assessments. She further stated that the statistics regarding the other states that regulate the profession of audiology needs to be updated. She suggested that the state leadership group would have the accurate statistics and that all 50 states now regulate the profession.

Ms. Hancock offered to provide additional information and statistics on individuals who suffer from swallowing issues due to stroke, neuropathy, aspiration pneumonia, etc.

Ms. O'Connor commented that she believed that the statistics regarding other states' regulation and licensure of support personnel should be retained in the report under the section regarding the speech-language pathology assistant category, and that she could provide updated statistics for the report.

Ms. Del Mugnaio stated that she and staff will continue to work on the report with an emphasis on completing the statistical profile by mid-September. She also stated that those members who agreed to contribute further information to the report should email the information to her for incorporation.

IX. Executive Officer's Report (Annemarie Del Mugnaio)

Ms. Del Mugnaio stated that she provided the Board with a written Executive Officer's report outlining the updates to the items listed on the agenda, and stated that she would answer any questions on the written report and provide any recent updates as applicable.

A. Budget Update

Ms. Del Mugnaio added that the Board submitted a budget change proposal to the Department of Finance that would reestablish the senior staff position (currently a $\frac{3}{4}$ time-base position as a result of a prior year controlled reduction of $\frac{1}{4}$ time) to a full time position. She stated that this would result in an \$18,000 augmentation to the Board's existing budget.

B. Applicant Tracking System (ATS) Implementation

No additional information was discussed regarding the ATS implementation.

C. Website Update (Auditory Processing Disorder Information)

Ms. Del Mugnaio stated that the Auditory Processing Disorder reference document was posted on the Board's website in mid-July 2005.

Ms. Del Mugnaio also reported that Mr. Ritter had developed a legal opinion regarding recent statutory changes affecting the authority for credentialed speech-language pathology and audiology personnel to provide services in non-public schools. She stated that the opinion concludes that certified nonpublic schools can utilize speech-language pathologists and audiologists who either hold a license or who have been credentialed by the Commission on Teacher Credentialing.

Robert Powell explained that non-public agencies (NPAs) and non-public schools (NPSs) are entities registered with the Department of Education. He stated that most NPAs and NPSs employ independent contractors to provide speech and language services.

Mr. Ritter stated that the opinion does not address independent contractors, rather, it covers the authority for credentialed speech-language pathologists or audiologists who are employed by the NPAs or NPSs to provide services.

Ms. Murphy inquired whether the new statutes covered private schools that hold WASC accreditation but who may not be registered as NPAs or NPSs with the Department of Education.

Robert Powell stated that the California Speech-Language-Hearing Association may need to seek further clarification from the Department of Education.

Mr. Ritter agreed to research the matter further, to the extent that these outstanding issues are relevant to the Board's regulatory responsibilities.

D. Continuing Professional Development Audit Report

Ms. Del Mugnaio referenced the information in the written Executive Officer's Report and remarked that Ms. Bollenbacher, who serves as the continuing professional development coordinator, is doing an outstanding job managing the 2005 audit.

E. Report of Approved Out-of-State Travel 2005

Ms. Del Mugnaio reported that the Governor's Office approved the Board's out-of-state travel request to attend the National Council of State Boards in Speech-Language Pathology and Audiology Conference to be held in Cincinnati, Ohio on October 20-22, 2005. She explained that, due to the workload surrounding the sunset review report preparation and staffing vacancies, it would be somewhat of a hardship for her to travel to this out-of-state conference. She invited interest from the members on attending the conference and representing the Board. Ms. O'Connor agreed to attend October 21-22, rather than Oct 20-22.

F. Strategic Plan 2005-2006 - Final

Ms. Del Mugnaio stated that the final version of the Board's 2005 Strategic Plan, as adopted at the April 2005 Board meeting, was included in the meeting packets.

G. Status of Proposed Regulations- Speech-Language Pathology Assistant-Bachelor Degree Applicants

Ms. Del Mugnaio stated that the final rulemaking file for the proposed regulations had been submitted to the Office of Administrative Law and should be approved by late September

XIII. Adjournment

Ms. Raggio adjourned the meeting at 1:40 p.m.

Annemarie Del Mugnaio, Executive Officer